

# MIDWEST TELEVISION, INC.

AUGUST C. MEYER, JR.  
President

EX PARTE OR LATE FILED

December 3, 1997

VIA MESSENGER

Chairman William E. Kennard  
Federal Communications Commission  
1919 M Street, N.W.  
Room 814  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

## **Ex Parte Submission in MM Docket No. 87-268**

Dear Chairman Kennard:

A group of broadcasters recently made an *ex parte* submission that showed how serious problems with the Commission's DTV Table of Allotments/Assignments could be corrected, without scrapping the Table and starting afresh.<sup>1/</sup> On behalf of Midwest Television, Inc., licensee of KFMB-TV (Channel 8, CBS affiliate) in San Diego, I wanted to explain how the DTV Table harms our San Diego viewers dreadfully and why we support the changes suggested by the Broadcasters' *ex parte* submission.

**Interference to San Diego Service.** The DTV Table released in April assigned DTV channel 8 to KABC-TV, Los Angeles, only 106.6 miles (171.7 km) from KFMB's analog channel 8 in San Diego. This co-channel assignment violated the Commission's own spacing requirements by 63.3 miles (102 km) or 37.3%.<sup>2/</sup> As stated in our Petition for Partial Reconsideration of

<sup>1/</sup> See *Ex Parte Submission Based on New Technical Discoveries to Help the Commission Improve the DTV Table of Allotments/Assignments Submitted by the Association for Maximum Service Television, Inc. and Other Broadcasters* (Nov. 20, 1997).

<sup>2/</sup> See 47 C.F.R. § 73.623(d), Appendix E (page E-36) of the *Sixth Report and Order*.

June 13, our consulting engineers calculated (using the Commission's methodology) that about 116,000 viewers stand to lose service from KFMB. Using a more conservative methodology, the short-spacing could deprive up to an additional 600,000 viewers of an acceptable KFMB signal. This loss amounts to more than 40% of our existing viewership. Viewers of the digital signal of KABC will also suffer; in fact, the predicted loss of 178,800 DTV viewers prompted (at least in part) ABC's own petition for reconsideration.

KFMB stopped short of proposing an alternative channel assignment for KABC. We recognized that perfecting DTV channel assignments requires a holistic approach and cannot be done piecemeal. We understood that a regional solution would have to be found and supported the work that MSTV and other broadcasters were doing to find such a solution.

**The Broadcasters' Improvements.** Apparently we were justified in our reliance on a regional solution. From what I understand, the Broadcasters' *ex parte* filing addresses two basic problems: troublesome DTV assignments in the most spectrum-congested regions of the country (such as southern California) and the late-discovered DTV-to-DTV adjacent channel interference. The *ex parte* filing shows that the assignment of DTV channel 42 (rather than channel 8) to KABC would preserve service for KFMB's analog viewers and KABC's digital viewers. ABC signed onto the *ex parte* filing and we support it. Thus, even though KABC and KFMB are in different markets, our mutual agreement on the changes suggested by the *ex parte* filing fits into the Commission's scheme of voluntary channel changes negotiated by stations.

**Changes to the DTV Table.** We recognize that the Commission may be resistant to the Broadcasters' *ex parte* filing because it comes fairly late in the game and entails almost 360 DTV assignment changes. Frankly, we are not at all surprised that it took until November to come up with solutions to the most vexing problems in the DTV Table as well as to cope with a technical finding (on DTV-to-DTV adjacent channel interference) that appeared after testing this summer. To build consensus and address as many concerns as possible, MSTV and NAB took considerable pains to vet the *ex parte* filing through the industry several times.

Are 360 changes too many to address these concerns? In thinking about this, it is important to recognize that fewer changes probably means fewer solutions and that it may take 50 changes to solve 5 problems. The Broadcasters prioritized the most troublesome DTV assignments (far fewer than

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360), but brought into play many more assignments because of the daisy-chain effect that one channel change has on its neighbors. According to the filing, about two-thirds of the 360 changes were necessitated by the DTV-to-DTV adjacent channel problem -- something the Commission will have to solve whether or not it considers the *ex parte* filing. In the congested markets, it may have been necessary to make several changes in place of just one where a single change would have required the use of another channel in the 60-69 band.

Of course, in the end, the Commission will have to decide whether to make any, many, or most of the 360 changes. In doing so, it should resist the temptation to assume that more changes mean more disruption or more delay. Most stations have not yet acted in reliance on their DTV channel assignments and all were on notice that there were more than 230 petitions for reconsideration pending. Furthermore, the 100th or 200th change may remove an obstacle to a station's build-out plans that otherwise would take more time and resources (the Commission's and the station's) to remove and therefore these changes will often facilitate and speed DTV implementation.

We believe that the *ex parte* filing shows that the problematic DTV assignments in southern California can be remedied. The Commission can make those corrections now at little cost. Waiting to make these changes later, after the build-out has begun, will likely be more burdensome for the Commission and more costly for stations and their viewers. We are glad that the Commission has put the Broadcasters' *ex parte* filing out for comment and we will file in response.

Sincerely yours,

*Chris Meyer / C.R.R.*

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